IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10346 OF 2004

Anjayya K. Chindam ..Petitioner.

Vs.

State of Maharashtra & Ors. ..
Respondents.

....

Mr. A.B. Desai for the Petitioner.
Mr. C.R. Sonawane, Assistant Government Pleader for
Respondent Nos.1 to 3.

....

CORAM: KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

25th April, 2006.

P.C. (Per DR. D.Y. CHANDRACHUD, J.) :

1. Rule, returnable forthwith. The learned Assistant Government Pleader appearing for Respondents 1 to 3 waives service. By consent taken up for hearing and final hearing.

2. The grievance in this proceeding under Article 226 of the Constitution is that no steps have been taken by the State, the Collector, Thane and the Tahsildar, Bhiwandi, to execute recovery certificates issued in favour of the Petitioner by the Assistant Commissioner of Labour under Section 33(c) of the Industrial

Disputes Act, 1947.

3. The Petitioner was in service of Respondents 4 to 6 as a warper from February 1993. His services were terminated on 6th February, 1996. A reference was made to the Labour Court by the appropriate Government and by an award dated 25th November, 1999 the Petitioner was granted reinstatement with full back wages and continuity of service. The award was published on 28th December, 1999. Since the award was not implemented, the Assistant Commissioner of Labour was moved under Section 33(c)(1) and a recovery certificate was issued on 19th September, 2001 in the amount of Rs.1,77,000/-. An application was also moved under Section 33(c)(2) which was numbered as Application (IDA) 142 of 1996 before the Labour Court in which Respondents 4 to 6 appeared and filed a written statement. By an order dated 23rd January, 2002 the Labour Court granted to the Petitioner his claim in the amount of Rs.16,500/-. Based on that order a recovery certificate dated 28th July, 2003 was issued by the Assistant Commissioner of Labour in the like amount. The Petitioner thereafter approached the Collector, Thane and Tahasildar, Bhiwandi to enforce the recovery certificates and despite several

reminders no steps were taken. That led to the institution of these proceedings.

4. An affidavit in reply has been filed by the Tahsildar, Bhiwandi in which it has been stated that in pursuance of the recovery certificate issued in favour of the Petitioner, the Tahsildar, Bhiwandi issued notices under Section 174 of the Maharashtra Land Revenue Code, 1966. However, it has been stated that the notices could not be served as the premises bearing No. 79, Cap Kaneri, Near Old. S. T. Stand, Bhiwandi, District Thane were found closed, the officials were informed that the loom sheds conducted by the Fourth and Fifth respondents have been closed and the premises which have been occupied on rental basis have been vacated. Hence, it has been stated that the Tahsildar, Bhiwandi was constrained to close the file since no other address within his jurisdiction was available for executing the recovery certificates. It has been admitted that on 23rd May, 2002 the Petitioner informed the office of the Tahsildar, Bhiwandi that the opponents viz. Laxmi Silk Mills, Kalbadevi and Vankatesh Synthetics, Kalbadevi own two other properties within the jurisdiction of the Collector, Mumbai. No steps, however, have been taken in pursuance of the said

requisition. In our view, the Third Respondent has manifestly failed to discharge his duties in accordance with law. The case of the Third Respondent is that the premises within his jurisdiction were found to be closed and therefore the file was closed as no other address was available for executing the recovery certificate. There is merit in the grievance of the Petitioner that despite several letters written by him, copies of which have been annexed to the proceedings before this Court, none of the authorities even cared to address a communication to him informing him the reasons why the recovery certificate could not be executed. Though it has been admitted that the Petitioner's letter dated 23rd May, 2002 intimating address of Respondent Nos. 4 and 5 at Mumbai was received, no steps were taken on the basis of that letter. The Third Respondent was duty bound to forward the recovery certificate to the Collector, Mumbai who would in turn have been in a position to initiate execution proceedings. The authorities have unfortunately been lethargic in their approach. This Court must disapprove the apathy demonstrated by the Third Respondent in these proceedings. In **Islam Ali v. D. Dayaram & Co.** (1998 (80) FLR 719) a Division Bench of this Court has held that the dues of a workman should be recovered within a reasonable period and a period of three months

is a reasonable period of time within which an endeavour should be made to recover the amounts which have been certified except where there are extra ordinary good reasons for delay. We direct that the State Government shall now issue directions forthwith to all the concerned authorities that there should be efficacious and speedy action in pursuance of the recovery certificates issued under the Industrial Disputes Act, 1947 and that the judgment of the Division Bench noted earlier is observed. Respondents 4 to 6 have failed to appear in these proceedings despite notice. An affidavit of service has been filed and upon due verification the Division Bench directed on 8th July, 2005 that service having been completed the matter should be placed for further consideration. In these facts and circumstances, therefore we dispose of the Petition in the light of the following directions :

We direct that the Third Respondent shall forthwith transmit the two recovery certificates (Exh. D and E to the proceedings) to the Second Respondent who shall within a period of two weeks transmit them in accordance with law to the Collector, Mumbai. The First Respondent shall through its Ministry of Labour forthwith direct the competent officer in Mumbai to take necessary recourse

to the powers available under the Maharashtra Land Revenue Code, 1966 for executing the recovery certificates in accordance with law. We direct that this procedure shall be pursued efficaciously and every endeavour shall be made to ensure that the amounts due and payable to the Petitioner are realized forthwith and in any event no later than three months from today. The Petition is accordingly disposed of in these terms. There shall be no order as to costs.

CHIEF JUSTICE

(DR. D.Y. CHANDRACHUD, J.)